

<b>STATE OF MICHIGAN</b> JUDICIAL CIRCUIT - FAMILY DIVISION COUNTY	<b>ORDER FOLLOWING INITIAL PERMANENCY          PLANNING HEARING, POST-TERMINATION          (CHILD PROTECTIVE PROCEEDINGS), PAGE 1</b> ORDER ____ OF ____	<b>CASE NO.          PETITION NO.</b>
Court address		Court telephone no.

1. In the matter of  
name(s), alias(es), DOB

2. Date of hearing: \_\_\_\_\_ Judge/Referee: \_\_\_\_\_

3. Removal date: \_\_\_\_\_ (specify for each child if different)

4. Parental rights to the above named child(ren) was/were previously terminated.

5. Notice of hearing for the permanency planning hearing was ☐ given ☐ waived as required by law.

6. The court considered the permanency plan and other evidence presented. The findings below are specific to this case and are based upon this hearing and the following report(s): \_\_\_\_\_  
identify report(s) and date(s) of report(s)

**THE COURT FINDS:**

7. The lawyer-guardian ad litem ☐ has ☐ has not complied with the requirements of MCL 712A.17d.

8. Reasonable efforts ☐ have ☐ have not been made to finalize the court-approved permanency plan of

- ☐ a. legal guardianship for the child(ren) named \_\_\_\_\_ .
- ☐ b. adoption for the child(ren) named \_\_\_\_\_ .
- ☐ c. placement with a fit and willing relative for the child(ren) named \_\_\_\_\_ .
- ☐ d. placement in another planned permanent living arrangement, identified as \_\_\_\_\_ .

\_\_\_\_\_, due to the compelling reasons that  
 (provide the name of each child and then specify the compelling reasons for another planned permanent living arrangement for each child, as appropriate, by entering the language that corresponds to the number[s] from the list on page 2)

The reasonable efforts made to finalize the court-approved permanency plan identified above include:  
 (specify the permanency plan for each child and the reasonable efforts made toward finalizing that plan)

9. The child(ren)'s continued placement is necessary and appropriate and is meeting the child(ren)'s needs.

10. The permanency planning goal ☐ is ☐ is not appropriate.

(SEE SECOND PAGE)

Do not write below this line - For court use only

**USE NOTE:** Use form JC 76 for all subsequent post-termination permanency planning hearings.

<b>STATE OF MICHIGAN</b> <b>JUDICIAL CIRCUIT - FAMILY DIVISION</b> <b>COUNTY</b>	<b>ORDER FOLLOWING INITIAL PERMANENCY</b> <b>PLANNING HEARING, POST-TERMINATION</b> <b>(CHILD PROTECTIVE PROCEEDINGS), PAGE 2</b> <b>ORDER ____ OF ____</b>	<b>CASE NO.</b> <b>PETITION NO.</b>
Court address		Court telephone no.

In the matter of

**IT IS ORDERED:**

11. The child(ren)'s commitment to the Department of Human Services for permanency planning, supervision, care, and placement under MCL 400.203 continues.
12. The Department of Human Services shall make reasonable efforts to finalize the permanency plan for each child.
13. Other: (attach separate sheet as needed)

**H**

- ☐ 14. Review hearings shall be held as follows:

(NOTE: The review hearing shall not be delayed beyond the number of days required regardless of whether another matter is pending. MCL 712A.19a provides that the permanency planning hearing shall not be delayed beyond 12 months from the date of removal of the child and every 12 months thereafter.)

☐ post-termination review hearing \_\_\_\_\_ ☐ permanency planning hearing \_\_\_\_\_

The supervising agency shall provide documentation of progress relating to all aspects of the last court ordered treatment plan, including copies of evaluations and therapy reports and verification of parenting time not later than 5 business days before the scheduled hearing.

**I**

15. ☐ Notice of the next hearing has been provided as required by law. ☐ Notice of the next hearing shall be provided.

Date \_\_\_\_\_

Judge \_\_\_\_\_

**The following list are examples of compelling reasons for a permanency plan other than return to parent, legal guardianship, placement with a fit and willing relative, or adoption.**

1. No relative has been identified who is appropriate or available to assume the permanent custody of the child.
2. The current caregiver is not an adoptive resource.
3. The child has a significant attachment to the parent(s), and it is in the child's best interests that it be preserved through parenting time and contact.
4. Reasonable efforts to recruit an adoptive home have been unsuccessful.
5. The child does not want to be adopted and is of an age where due consideration must be given to his/her wishes.
6. It is contrary to the child's best interests to break the child's attachment to the current caregivers.
7. The current caregiver is committed to providing a permanent placement for the child.
8. The placement allows the siblings to remain together.
9. The child's special needs can best be met in this placement.
10. The child wants to remain in the current placement, which is only available as foster care.
11. The placement is preparing the child for transition into independent living (specify the services being provided to the child to assist with transition such as referral to an independent living skills program, enrollment in a vocational program, referral for a mentor, continued out-of-home placement in foster care beyond age 18 to allow the child to complete secondary school, placement in a resource that provides on-site training for independent living, and other similar services).
12. The child comes under the Indian Child Welfare Act, and the child's tribe recommends permanent placement in long-term foster care.
13. Other (specify in the findings in item 8d).

## Instructions for Using JC 63a

This form is designed to be used after the initial permanency planning hearing (PPH) following termination of parental rights. For a permanency planning hearing held prior to termination of parental rights, use JC 64. For all subsequently permanency planning hearings, whether combined with post-termination review hearings or not, -use JC 76.

The purpose of a PPH is to “review the status of the child and the progress being made toward the child’s return home or to show why the child should not be placed in the permanent custody of the court.” MCL 712A.19a(3).

- A** 2-3. The date of hearing and removal date are key elements because MCL 712A.19a requires that the court “conduct a permanency planning hearing within 12 months after the child was removed from his or her home.” Further, subsequent PPHs are required within 12 months of the previous hearing, so the removal date is key for the first PPH, and subsequent PPHs are scheduled from the first PPH date.
- B** 5. Notice for PPHs is governed by MCL 712A.19a, which requires written notice of the hearing not less than 14 days before the hearing is scheduled. See also MCR 3.921(B)(3) and MCR 3.920(E), which allows for written waiver of notice.
- C** 6. When making determinations at a PPH, the statute requires the court to consider any written or oral information concerning the child. This provision allows the court to identify what reports the court relied on in reaching its findings. In addition, 45 CFR 1356.21(d) requires a judicial determination that reasonable efforts have been made to finalize a permanency plan be explicitly documented and made on a case-by-case basis.
- D** 7. MCL 712A.17d requires the lawyer-guardian ad litem (L-GAL) to meet with or observe the child before a permanency planning hearing. This new provision requires the court to determine whether such contact or observation occurred. L-GALs are required to meet with or observe the child in the following instances:
  - a. Before the pretrial hearing
  - b. Before the initial disposition, if held more than 91 days after the petition has been authorized
  - c. Before a dispositional review hearing
  - d. Before a permanency planning hearing
  - e. Before a post-termination review hearing
  - f. At least once during the pendency of a supplemental petition
  - g. At other time as ordered by the court

Adjourned or continued hearings do not require additional visits unless ordered by the court, and the court may also order alternative means of contact with the child if good cause is shown on the record to do so.

- E** 8. This provision is the specific finding as to whether reasonable efforts have been made to finalize the court-approved permanency plan. The permanency plans listed include those specifically enumerated in 45 CFR 1356.21(h)(3), which are drawn from the Social Security Act, 42 USC 675(5)(C). These permanency plan options are also reflected in MCR 3.976(A). Note that reunification is not an option; this form is designed to be used after termination, so reunification would not longer be a viable permanency plan.

## Instructions for Using JC 63a (continued)

These specific findings are required for Title IV-E eligibility. 45 CFR 1356.21(b)(2)(i) states that “[t]he State agency must obtain a judicial determination that it has made reasonable efforts to finalize the permanency plan that is in effect (whether the plan is reunification, adoption, legal guardianship, placement with a fit and willing relative, or placement in another planned permanent living arrangement) within twelve months of the date the child is considered to have entered foster care . . . and at least once every twelve months thereafter while the child is in foster care.” Not only must the court find that reasonable efforts have been made to finalize the permanency plan, but it must also explicitly document that determination on a case-by-case basis. 45 CFR 1356.21(d). In addition, MCR 3.976 requires that the court determine whether the agency has made reasonable efforts to finalize the permanency plan, and identify what that plan is.

If the court finds as part of a permanency planning hearing that placement in another planned permanent living arrangement is the appropriate permanency plan for the child (as opposed to reunification, legal guardianship, or placement with a fit and willing relative), federal regulations require that the state must document to the court **the compelling reasons** for the alternate plan. In other words, the federal regulations encourage any other permanency plan before “another planned permanent living arrangement.”

The federal regulations give some examples of what can constitute compelling reasons to support another planned permanent living arrangement as the permanency plan for a child. The examples cited in the federal regulations include: “i) the case of an older teen who specifically requests that emancipation be established as her/her permanency plan; ii) the case of a parent and child who have a significant bond but the parent is unable to care for the child because of an emotional or physical disability and the child’s foster parents have committed to raising him/her to the age of majority and to facilitate visitation with the disabled parent; or, iii) the Tribe has identified another planned permanent living arrangement for the child.” 45 CFR 1356.21(h)(3). A more extensive list is attached following the form.

- F** 9. This provision is required for post-termination reviews pursuant to MCL 712A.19.
- G** 10. This finding is required for a post-termination review hearing under MCL 712A.19c(1)(a).
- H** 14. Review hearings are scheduled at the end of this PPH, and may include either a post-termination review or a subsequent PPH. For convenience and efficiency, the hearings should be scheduled together, and appropriate notice provided. See form JC 76 for subsequent review and permanency planning hearings.
- I** 15. These provisions are designed to make notice easier for the courts and help keep the parties, parties’ counsel and the court on a schedule. If all parties are present at the initial PPH or review hearing, and the court selects a date for the next review hearing or PPH, the court would check the first box indicating that the parties present received notice of the next hearing. If a party is not present, separate notice is required.